

THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN
ATTORNEY GENERAL

August 3 , 1970

Honorable Jamie C. Boyd
District Attorney
34th Judicial District
4th Floor, City-County Building
El Paso, Texas 79901

Opinion No. M- 662

Re: Interpretation of Section
2(o), Article 2328b-4,
Revised Civil Statutes of
Texas, as amended.

Dear Mr. Boyd:

You have requested an opinion of this office as follows:

"Is the District Attorney of the 34th Judicial District, who is not a criminal district attorney, empowered to act as a prosecuting attorney under Section 2(o), Article 2328b-4, Revised Civil Statutes of Texas, as amended, commonly referred to as the Uniform Reciprocal Enforcement of Support Act."

Section 2(o) of Article 2328b-4, as amended in 1969 (Acts 61st Leg., R.S., Ch. 553, p. 1698) reads as follows:

"'Prosecuting attorney' means the criminal district attorney or county attorney, or the district attorney where there is no criminal district attorney or county attorney."

It is the opinion of this office that the above Section quoted is quite unambiguous and clear. The responsibility of the district attorney to act as a prosecuting attorney in the enforcement of the Uniform Reciprocal Enforcement of Support Act, Article 2328b-4, arises only where there is neither a criminal district attorney nor a county attorney.

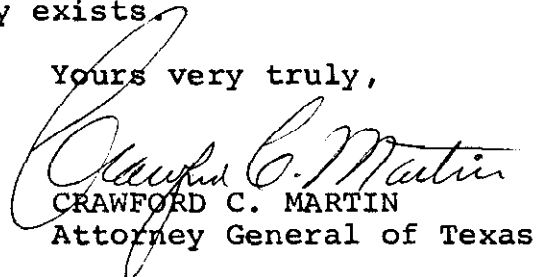
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You state that the district attorney of the 34th Judicial District, comprising the counties of El Paso, Culberson and Hudspeth, is not a criminal district attorney, and that each county in the district has its own separate county attorney. Consequently, as a district attorney in a district where each county has its own separate county attorney, you are not designated in the statute as a "prosecuting attorney." The statute is clear that the county attorney should act in such matters as a prosecuting attorney where a county attorney exists.

S U M M A R Y

A district attorney in a district where each county has its own separate county attorney is not designated by Section 2(o), Article 2328b-4, Revised Civil Statutes of Texas, as amended, as a "prosecuting attorney." The county attorney should act in such matters where a county attorney exists.

Yours very truly,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Bennie W. Bock, II
Assistant Attorney General

APPROVED:
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